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6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
7 IN AND FOR THE COUNTY OF THURSTON  
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9 IN RE:

10 E-NEXT MEDIA, INC.; 2SQUARED  
11 SOFTWARE, LLC; C-NET MEDIA, INC.;  
12 ANTISPYWARE, LLC; C&C NETWORKS,  
INC.; PC UTILITY, INC.; AND BRUCE C.  
COPE,

13 Respondents.


NO.

PETITION FOR ORDER APPROVING  
ASSURANCE OF DISCONTINUANCE  
PURSUANT RCW 19.86.100

14  
15 COMES NOW, State of Washington, by and through its attorneys, Robert M. McKenna,  
16 Attorney General and Jason E. Bernstein, Assistant Attorney General and petitions this Court for  
17 an Order approving the attached Assurance of Discontinuance. This petition is made pursuant to  
18 RCW 19.86.100, which authorizes the Attorney General to accept an Assurance of  
19 Discontinuance in the enforcement of the Consumer Protection Act. A proposed order is  
20 enclosed.

21 DATED this \_\_\_\_ day of April, 2011.

22 ROB MCKENNA  
23 Attorney General

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25 JASON E. BERNSTEIN, WSBA #39362  
26 Assistant Attorney General  
Attorneys for State of Washington

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11 SOFTWARE, LLC.; C-NET MEDIA, INC.;  
12 ANTISPYWARE, LLC.; C&C NETWORKS,  
13 INC; PC UTILITY, INC.; and BRUCE C.  
COPE,

Respondent.

NO.


ORDER APPROVING ENTRY OF  
ASSURANCE OF DISCONTINUANCE

14 The Court hereby approves and orders entry of the attached Assurance of Discontinuance  
15 pursuant to RCW 19.86.100.  
16

17 Approved on this \_\_\_\_\_ day of \_\_\_\_\_, 2011.  
18

19 \_\_\_\_\_  
JUDGE/COURT COMMISSIONER

20 Presented By:  
21 ROB MCKENNA  
Attorney General

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23 JASON E. BERNSTEIN, WSBA #39362  
24 Assistant Attorney General  
25 Attorneys for State of Washington  
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12 SOFTWARE, LLC; C-NET MEDIA, INC.;  
13 ANTISPYWARE, LLC; C&C NETWORKS,  
14 Inc.; PC UTILITY, INC.; and BRUCE C.  
15 COPE,

Respondents.

NO.

ASSURANCE OF DISCONTINUANCE

16 The State of Washington, by and through its attorneys, Robert M. McKenna, Attorney  
17 General, and Jason E. Bernstein, Assistant Attorney General, files this Assurance of  
18 Discontinuance pursuant to RCW 19.86.100.

19 **I. INVESTIGATION**

20 **1.1.** The Attorney General initiated an investigation into the business practices of  
21 Respondents, e-Next Media, Inc., 2Squared Software, LLC, c-Net Media, Inc., Antispyware,  
22 LLC, C&C Networks, Inc., PC Utility, Inc., and Bruce C. Cope ("Respondents").

23 **1.2.** Respondents were engaged in the advertising, marketing, and selling of computer  
24 software of two broad classes: anti-spyware scanners and registry cleaners. These programs were  
25 sold on numerous websites. Examples of the software include: SpywareStop, SpywareBot,  
26 Spyware Remover, MalwareBot, Ad-ware Alert, RegistryBot, Error Killer, RegRecall, and many

1 others. Examples of the domain names used to sell these programs include: adwarealert.com,  
2 errorkiller.com, malwarebot.com, registrybot.com, regrecall.com, spywarebot.com,  
3 regssweep.com, antispyspywarebot.com, 2squared.com, and more.

4 **1.3** Many Washington consumers purchased software from Respondents between  
5 2008 and the present.

6 **1.4** Each program was sold via a “free scan” download. Consumers downloaded the  
7 programs to their computers. The programs then scanned the consumers’ computers and reported  
8 back a number of potential problems, either spyware threats or registry errors, depending on the  
9 class of software. In order to actually clean the spyware infection or fix the registry errors,  
10 consumers were required to purchase the full version of the programs, often costing as much as  
11 \$39.99.

12 **1.5** Several anti-spyware products, including Spyware Stop, Spyware Remover, and  
13 Malware Bot routinely flagged harmless Internet cookies as “parasites” or “infections.”

14 **1.6** Several registry cleaner products used alarmist, potentially misleading language to  
15 describe the problems detected on users’ computers. RegistryBot flagged empty registry keys as  
16 errors and when a user tried to register the product, the RegistryBot website informed the  
17 consumer that “You’ve reached this page because your PC has errors or corrupt files which need  
18 to be removed or repaired for your PC to function just as when you first purchased it.” RegRecall  
19 was sold via identical language. A purchase page for Error Killer declared, “If your PC has any  
20 errors or corrupt files, it could be a matter of time before your PC will crash!”

21 **1.7** Respondents also used consumer testimonials on websites used to advertise and  
22 sell their products. However, across each class of software (e.g. registry cleaners), the  
23 testimonials were often identical, despite the fact that they were being used to sell different  
24 products. The testimonials contained no disclosures regarding which specific program the  
25 consumer was allegedly recommending.  
26

## II. ASSURANCE OF DISCONTINUANCE

2.1. The Attorney General deems and Respondents acknowledge the following to constitute unfair or deceptive acts or practices, and unfair methods of competition, in violation of the Consumer Protection Act, chapter 19.86 RCW:

- a) Failing to disclose the origin of testimonials used to sell non-identical computer programs when the testimonials did not specify which program the consumer tried and recommended.
- b) Inducing a consumer to purchase software by misrepresenting the extent to which that software is necessary for maintenance, update, or repair of a computer or for the proper operation of a computer.
- c) Misrepresenting that a simple Internet cookie represents a significant threat to the user's computer by referring to it as an "infection" or "parasite" unless the cookie is a known vector for a virus or a known indicator of harmful malicious software ("malware").
- d) Misrepresenting that a collection of empty registry keys, registry errors or corrupt files will cause a computer to crash or that fixing empty keys is necessary for the computer to operate normally.

2.2 Respondents or their successors agree to discontinue and/or not engage in the above identified unfair or deceptive acts or practices and unfair methods of competition.

2.3 This Assurance of Discontinuance shall not be considered an admission of violation for any purposes; but proof of failure to comply with this Assurance of Discontinuance shall be *prima facie* evidence of violations of RCW 19.86.020, thereby placing upon the violator the burden of defending against imposition by the Court of injunctions; restitution; civil penalties of up to \$2,000.00 per violation, and costs including reasonable attorneys' fees including the costs and attorneys' fees incurred by the Attorney General in the foregoing investigation and in preparing this Assurance of Discontinuance.

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**3.2.** The costs and fees in the amount of \$9,000 are to be paid in full at the time of signing this Assurance. The payment shall be made by valid check, made payable to the “Attorney General -- State of Washington”, and shall be delivered to the Office of the Attorney General, Attention: Cynthia Lockridge, Administrative Office Manager, 800 5<sup>th</sup> Avenue, Suite 2000, Seattle WA 98104-3188.

**4.1.** This Assurance of Discontinuance shall not be considered a finding of wrongdoing or an admission of violation for any purposes; but failure to comply with this Assurance of Discontinuance shall be prima facie evidence of violations of RCW 19.86.020, thereby placing upon the violator the burden of defending against imposition by the Court of injunctions, restitution, and civil penalties of up to \$2,000 per violation and costs, including reasonable attorneys' fees.

**4.3** This Assurance of Discontinuance shall be binding on the Respondents and their respective owners, directors, successors, assigns, transferees, officers, agents, partners, servants, employees, representatives, and all other persons acting in concert or participating with Respondents in the context of conducting Respondents' businesses.

**4.4 Release of Claims:** By its execution of this Assurance of Discontinuance, the State releases Respondents from all civil claims, causes of action, damages, restitution, fines, costs and penalties under Chapter 19.86, RCW arising from the conduct that is the subject of this Assurance

1 of Discontinuance. In the event that a Respondent violates this Assurance of Discontinuance, this  
2 release of claims becomes void with regard to that Respondent, and nothing shall prevent the State  
3 from enforcing Chapter 19.86, RCW and seeking permanent injunctive relief and recovery of  
4 costs, restitution, and civil penalties against that Respondent for any conduct covered by this  
5 Assurance of Discontinuance prior to its execution by the parties.

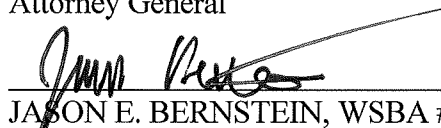
6 **4.5** Nothing in this Assurance of Discontinuance shall be construed so as to limit or  
7 bar any other person or entity from pursuing available legal claims or remedies against  
8 Respondents.

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11 Approved on this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

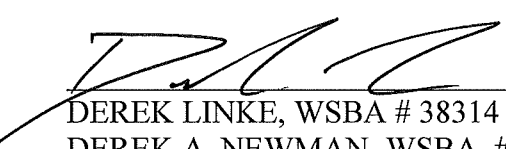
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13 \_\_\_\_\_  
JUDGE/COURT COMMISSIONER

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16 Presented By:

17 ROBERT M. MCKENNA  
18 Attorney General

19   
20 JASON E. BERNSTEIN, WSBA #39362  
Assistant Attorney General  
21 Attorneys for State of Washington

Agreed to, Approved For Entry, and  
Notice of Presentation Waived:

22   
23 DEREK LINKE, WSBA # 38314  
24 DEREK A. NEWMAN, WSBA # 26967  
25 Attorneys for Respondents  
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